



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, D.C. 20230

January 7, 1997

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Federal

Commission

ET 97-99

Mr. Richard Smith
Chief, Office of Engineering
and Technology
Federal Communications Commission
Washington, D.C. 20554

Dear Mr. Smith:

I am writing on behalf of the Department of Defense (DoD) to request that the Federal Communications Commission (Commission) protect two government earth stations authorized under the provisions of footnote US243. I am also requesting that the Commission expeditiously undertake any other necessary actions, such as amending the Commission's Rules and modifying Commission issued licenses.

On July 12, 1995, Larry Irving, Assistant Secretary for Communications and Information, in a letter to Chairman Hundt, requested on behalf of the Department of Defense that the FCC adopt the following footnote to the National Table of Frequency Allocations:

USXXX: in the band 17.8-20.2 GHz, Government space stations and associated earth stations in the fixed-satellite (space-to-Earth) service may be authorized on a primary basis. For a Government geostationary satellite network to operate on a primary basis, the space station shall be located outside the arc measured from East to West, 70W to 120W. Coordination between Government fixed-satellite systems and non-Government systems operating in accordance with the National Table of Frequency Allocations is required.

The letter also indicated that this matter involves military functions, as well as specific sensitive national security interests of the United States and stated that the reallocation was essential to fulfill requirements for Governmental space systems to perform satisfactorily.

In response, the FCC adopted the requested footnote by a Memorandum Opinion and Order, FCC 95-316 (released July 31, 1995). This modified the Allocation Table in Section 2.106 of the Rules to include, via footnote US334, the Government fixed-satellite service in the 17.8-20.2 GHz band.

As you are aware, the Government has earth stations in the Denver, CO and Washington, DC areas that are associated with space stations in the fixed-satellite service that operate at 17.8-20.2 GHz that need to be protected. Information on these satellite networks has been provided to the FCC and advance published with the International Telecommunication Union.

At the time of the request there was no indication concerning any FCC licensee for terrestrial operations in these areas. Subsequently it was determined that the FCC has issued licenses in the 17.8-20.2 GHz band to networks in the Digital Electronic Messaging Service (DEMS) that include both the Denver and Washington areas and has applications pending for additional authorizations. Based on a series of discussions with Commission staff concerning specific facilities at these locations, it is our view that co-frequency, co-coverage use of the 17.8-20.2 GHz band by earth stations of the Government fixed-satellite service and the non-Government DEMS will not be possible within 40 km of our earth stations. Furthermore, it is our understanding that the Commission views the availability of frequencies for DEMS on a nation-wide basis to be highly desirable. Taking into account our common interests, we could make available spectrum in the region of 24.25-24.65 GHz and suggest that the Commission take such steps as may be necessary to license DEMS stations in this spectrum, including modification of licenses pursuant to Section 316 of the Communications Act.

We are asking that these actions be undertaken on an expedited basis. As we have previously indicated, this matter involves military functions, as well as specific sensitive national security interests of the United States. These actions are essential to fulfill requirements for Government space systems to perform satisfactorily.

The Commission is permitted to amend its Rules without complying with the notice provisions of the Administrative Procedures Act (APA) in cases involving any "military, naval or foreign affairs function of the United States" 5 U.S.C. 553(a)(1); or where the agency for good cause finds "notice and public procedure... are impracticable, unnecessary, or contrary to the public interest" 5 U.S.C. 553(b)(3); See also Bendix Aviation Corp. v. FCC, 272 F.2d 533, 536 (D.C. Cir. 1959), cert. denied sub nom. Aeronautical Radio, Inc v. United States, 361 U.S. 965 (1960).

Currently NTIA has assignments for six radionavigation stations at specific locations that include portions of the 24.25-24.65 GHz. Staff from this office will work with the Commission staff to determine any sharing agreements or transition plans for these stations. We will also work with the Commission to determine the specific band limits for the fixed service at 24 GHz.

Thank you for your attention to this matter. Please contact either me or Edward Davison of this office at 202-482-1850 with any questions.

Sincerely,



Richard Parlow
Associate Administrator
Office of Spectrum Management

cc: Michele Farquhar
Donald Gips